

**DECLARATION OF JAMES R. DICKENS
EXHIBIT A
(PAGES 1-20)**

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

MYRNA I. JOHNSON,

Plaintiff,

v.

FRED MEYER STORES, INC.,
a Delaware corporation;
and JAIME SAN MIGUEL,

Defendants.

Case No. J04-008 CV

DEPOSITION OF MYRNA JOHNSON
Pages 1 through 264, Inclusive
Taken: Monday, January 23, 2006
Place: Juneau, Alaska

Ex. A, p. 1

1 A. She lives in Los Angeles, California.

2 Q. And your 21-year-old daughter, what is
3 her name?

4 A. Anna, A-N-N-A, Melissa, Pascual,
5 P-A-S-C-U-A-L.

6 Q. And where is she?

7 A. She is living in 90 Maginao, Bulacan,
8 Philippines. 90 M-A-G-I-N-A-O, B-U-L-A-C-A-N,
9 Philippines.

10 Q. And how long has Anna been in the
11 Philippines?

12 A. Since March of 2002.

13 Q. We'll come to this a little bit later,
14 but my understanding from the records is, you took
15 her over to the Philippines in February of 2002
16 when you initially took your leave. Is that
17 correct?

18 A. Yes, sir.

19 Q. So she's been there ever since that
20 period of time?

21 A. She comes to visit here too.

22 Q. Right. But I mean she has been a
23 resident of the Philippines since approximately
24 February of 2002?

25 A. Yes, sir.

1 your attorney, I understand that you went to high
2 school in the Philippines and got an undergraduate
3 college degree in the Philippines?

4 A. Yes, sir.

5 Q. Now, I have gotten two different pieces
6 of information on what your degree was. Can you
7 tell me in what area your Philippine degree was?

8 A. Excuse me, sir?

9 Q. Sure. What was your degree from the
10 University of the Philippines in?

11 A. I took liberal arts.

12 Q. Did you also spend some time in pre-law
13 prep?

14 A. I took two years of -- they call it
15 preparatory law.

16 Q. So some type of preparation to go to
17 law school; is that what I understand?

18 A. Yes, sir.

19 Q. Did you ever go to law school?

20 A. No, sir.

21 Q. Ms. Johnson, prior to the present
22 lawsuit, how many other civil lawsuits have there
23 been in which you have been a party?

24 A. Can you say the question again?

25 Q. Sure. This is a civil lawsuit, as

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1 Q. Pardon?

2 A. Excuse me? I didn't hear.

3 Q. Sure. When did you first come to
4 Juneau?

5 A. Sometime in November of 1992. I'm not
6 sure exactly.

7 Q. And did you stay, then, and live in
8 Juneau for basically the next ten years?

9 A. Yes, sir.

10 Q. Did you intend to stay in Juneau when
11 you came, or was that just a visit that was one
12 where you stayed on and got a job?

13 A. I'm planning to stay here.

14 Q. Did you have a job when you came?

15 A. No.

16 Q. Why was it you planned to come to
17 Juneau?

18 A. My brother has been inviting me for a
19 long time.

20 Q. Is Christobal your brother?

21 A. Yes, sir.

22 Q. Can you tell me what you did, then, to
23 obtain employment after you came in approximately
24 November 1992?

25 A. I went to unemployment office.

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1 manager, were you paid by the hour, or were you
2 paid a salary?

3 A. I started as salary.

4 Q. Under Mr. Laney?

5 A. Yes.

6 Q. Okay. Did you go to hourly?

7 A. Yes.

8 Q. And both as salary and as hourly, were
9 you evaluated by Mr. Laney?

10 A. Yes, sir.

11 Q. All right. Now, during the time that
12 Mr. Laney evaluated you, what do you recall he
13 listed as your strengths?

14 A. My people skills, my good customer
15 service, my reliability, and I'm very good in
16 helping people, and a hard worker.

17 Q. What do you recall he listed as areas
18 in which improvement was needed?

19 A. Yes, I -- I think, yes.

20 Q. No, no. The question is, what areas
21 did he list as ones in which you needed
22 improvement?

23 A. I'm not very sure. I don't really
24 recall.

25 Q. All right. As the second assistant

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1 manager, did you direct other people in the store?

2 A. Yes, sir.

3 Q. And which people, by position or title,
4 did you have responsibility to direct?

5 A. The closing employees.

6 Q. And which positions were those?

7 A. The closing cashiers, the closing
8 part-time employees, and some section heads when
9 they are working on the closing too.

10 Q. Now, as second assistant manager, what
11 kind of shifts did you work? When did you begin
12 and when did you finish?

13 A. I worked as the closing manager.

14 MR. CHOATE: What time?

15 Q. That's what is called a closing PIC?

16 A. Excuse me?

17 Q. Were you the closing PIC?

18 A. Yes, sir.

19 Q. Is that only for apparel?

20 A. Yes.

21 Q. Okay. And what hours did you normally
22 work then?

23 A. 1:30 on wintertime.

24 Q. 1:30 to what?

25 A. To closing.

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1 Q. which is when?

2 A. 11:30, when the store close on winter;
3 and 12:30, when the store close on summer.

4 Q. So in the summer, did you work 1:30 to
5 12:30?

6 A. Yes, sir.

7 Q. Did those shifts ever change because of
8 people absent, or did you ever work a different
9 shift than 1:30 to closing?

10 A. Very seldom.

11 Q. well, were there times when they did?

12 A. Yes.

13 Q. Now, during the time that you reported
14 to Mr. Laney -- which, as I understand, was from
15 about September 1996 until about January 2000 --
16 first of all, is that a correct time frame?

17 A. Yes, sir.

18 Q. All right. So a little over three
19 years. Did you report directly to Mr. Laney, or
20 was there someone between you and Mr. Laney in the
21 chain of command?

22 A. There is someone. There was --

23 Q. who was that?

24 A. Mr. San Miguel.

25 Q. Mr. San Miguel was the first assistant

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1 manager?

2 A. Yes, sir.

3 Q. Okay. During that time frame, what
4 shift did Mr. Laney work between, let's say,
5 January 1997 to January 2000?

6 A. Morning. Opening. We call it opening.

7 Q. All right. Opening is from what time
8 to what time?

9 A. Sometime he come in at 6:00, sometime
10 7:00. The store opened at 7:00, so they come in
11 one hour early sometimes -- most of the time,
12 excuse me.

13 Q. So he works, what, like 6:00 a.m. to
14 3:00 p.m. or whatever --

15 A. 4:00.

16 Q. 4:00. And during that same time frame,
17 from '97 to January of 2000, as you recall, what
18 kind of shifts did Mr. San Miguel work?

19 A. 8:00 to 5:00.

20 Q. All right. So then in the afternoon,
21 when you came to work, at some period of time from,
22 say, 1:30 until 4:00 or 5:00, all three of you were
23 at the office?

24 A. Yes.

25 Q. All right. So having a shift that

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1 A. Yes, sir.

2 Q. And in that computer e-mail, it lists
3 the position, the location, the hiring supervisor,
4 and the time frame that the position is open; is
5 that right?

6 A. Yes, sir.

7 Q. And from your experience, about how
8 long would those positions remain open for
9 interested applicants to apply?

10 A. The application, at the bottom, tells
11 you until when is that position available for
12 applicants to apply. It don't have always similar
13 dates.

14 Q. But in your experience, wasn't it true
15 that most positions were open for at least a week?

16 A. Yes, sir.

17 Q. All right. Now, when Mr. San Miguel
18 was promoted to the apparel manager, then did he
19 list the opening for the first assistant manager?

20 A. Yes.

21 Q. And you applied?

22 A. Yes.

23 Q. Do you know who else applied?

24 A. I do not recall, sir.

25 Q. Okay. Did you interview with Mr. San

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1 Miguel?

2 A. Yes.

3 Q. And when did you find out that you had
4 been selected?

5 A. Probably after two weeks.

6 Q. All right. Now, you had worked with
7 Mr. San Miguel, at that point in time, for how many
8 years?

9 A. From the day that Mr. Laney leaves
10 until that time, March 18 of 2002.

11 Q. My question must not have been clear.
12 I'll rephrase it.

13 When did Mr. San Miguel come to
14 the Juneau Fred Meyer?

15 A. I think around 1994. I'm not very
16 sure.

17 Q. Okay. So before he became the apparel
18 manager, you and he had worked together for
19 approximately six years?

20 A. Yes, sir.

21 Q. And during that six years, had he
22 always been the first assistant, and you had been
23 the second assistant?

24 A. Yes, sir.

25 Q. Okay. How would you describe your

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1 A. Yes, sir.

2 Q. But for the record, would you tell us
3 what a plan-o-gram is?

4 A. A plan-o-gram is the schematic design
5 that all the retail stores have in every store so
6 that the customer will not have a problem finding
7 merchandise from one store to another.

8 Q. So, in other words, you'd like a
9 customer to walk into a Fred Meyer store in Juneau
10 and walk into a Fred Meyer store in Anchorage and
11 feel familiar with where things are?

12 A. Yes, sir.

13 Q. And let's define "freight." what, at
14 Fred Meyer, is "freight"?

15 A. The stocks that we have to put on the
16 floor, the merchandise.

17 Q. The merchandise. All right. And what
18 was the issue in that December 1999 or whenever --
19 between you and Mr. San Miguel with regard to
20 putting out the freight?

21 A. We have so much freight for the
22 holidays.

23 Q. Uh-huh. So what --

24 A. Mr. Laney assign us to three shifts,
25 three schedules.

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1 manager?

2 A. Yes. That's all we have.

3 Q. Okay. Did you talk to Mr. Laney about
4 the situation?

5 A. Yes.

6 Q. And did you and Mr. Laney and
7 Mr. San Miguel, all three, talk about it?

8 A. Yes.

9 Q. How was it resolved then, just --

10 A. Then we came out of the stockroom as
11 friends again.

12 Q. All right. Were you not friends before
13 that?

14 A. No, we are friends. That means as if
15 nothing happened, as if we had no misunderstanding.

16 Q. And as friends, did you ever invite
17 Mr. San Miguel to your house?

18 A. Yes.

19 Q. How many times?

20 A. Numerous times, sir.

21 Q. What were the occasions?

22 A. He was at my house on my daughter's
23 birthday when I used to live on Nancy street. His
24 family, his father and his kids and brothers, were
25 at my house on July 4th to watch the fireworks.

1 Q. Any other times?

2 A. There's a few more, but I don't really
3 remember when are the dates.

4 Q. Would it be fair to say, before
5 Mr. San Miguel became the apparel manager, that you
6 and he got along reasonably well at work, and you
7 also were friendly outside of work?

8 A. Yes, sir.

9 Q. Okay. Did Mr. San Miguel talk to your
10 husband?

11 A. Yes.

12 Q. Was there any time before January 2002
13 when you thought that Mr. San Miguel, for one
14 reason or another, was unhappy with you?

15 A. No.

16 Q. Okay. Did Mr. San Miguel ever, before
17 January 2002, give you a performance evaluation?

18 A. Yes, sir.

19 Q. How was it?

20 A. It was good.

21 Q. Okay.

22 MR. CHOATE: We have been going
23 just about an hour. Whenever you have time to make
24 a natural break --

25 MR. DICKENS: Just a few more

1 minutes.

2 MR. CHOATE: Sure.

3 MR. DICKENS: Well, that's fine.

4 Let's just take one here. That's good.

5 10:02 AM

6 (Off record)

7 (Ms. Srader is not present)

8 10:18 AM

9 BY MR. DICKENS:

10 Q. Ms. Johnson, where did Mr. Laney go
11 after he left the company?

12 A. He went to Seattle, I think. Yeah. He
13 went to Seattle.

14 Q. Okay. And he was replaced by
15 Mr. San Miguel?

16 A. Yes.

17 Q. Did you apply for Mr. Laney's position?

18 A. No.

19 Q. Why not?

20 A. I'm not qualified for that position.

21 Q. What did you think the qualifications
22 were?

23 A. You have to be a first assistant before
24 you are qualified to become a manager.

25 Q. All right. So it is sort of a stepping

1 stone, you go from second assistant to first
2 assistant, first assistant to department manager?

3 A. Yes, sir.

4 Q. All right. After Mr. San Miguel became
5 the apparel manager in January, how did you and he
6 get along that next year?

7 A. I promise him I will -- we get along
8 good.

9 Q. Were there any areas in your
10 performance that Mr. San Miguel counseled you were
11 ones in which improvement would be good for you,
12 where improvement was needed?

13 A. No. I can't remember.

14 Q. Did you ever hear the word
15 "prioritize"?

16 A. Yes.

17 Q. Did Mr. San Miguel ever discuss that
18 issue with you, you need to work on prioritizing
19 your responsibilities?

20 A. Yes.

21 Q. And in what context did that discussion
22 take place?

23 A. That when he give me a project, I have
24 to look at the project and prioritize which is the
25 most important thing.

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1 Q. Did you work on that skill?

2 A. I did on that -- I work on that skill,
3 sir.

4 Q. Now, as the first assistant, what
5 schedule did you work, then, that year of 2001?

6 A. I am the opening manager.

7 Q. So what hours did you have?

8 A. 8:00 till 5:00.

9 Q. That's 8:00 a.m. to 5:00 p.m.?

10 A. That was the schedule.

11 Q. Now, when were schedules prepared at
12 Fred Meyer during the calendar year 2001?

13 A. Excuse me, sir?

14 Q. Sure. Isn't it true that schedules are
15 posted by the department manager for the following
16 week?

17 A. Yes.

18 Q. And what was the work week at Fred
19 Meyer?

20 A. Sunday to Saturday.

21 Q. When were those schedules prepared?

22 A. It has to be posted at least before
23 Friday of the previous week.

24 Q. All right. Just to make sure we are
25 clear, by Friday, January 19, 2006, the department

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1 manager would post the schedule for the week
2 beginning Sunday, January 22?

3 A. Yes.

4 Q. All right. So your schedule, then, for
5 working 8:00 a.m. until 5:00 p.m. would have been
6 posted the prior Friday?

7 A. Yes.

8 Q. Now, during 2001, then, now that you
9 are working during the day shift, 8:00 to 5:00
10 p.m., when did you do all those vendor jobs?

11 A. In the afternoon sometimes.

12 Q. I thought you were working at Fred
13 Meyer in the afternoon?

14 A. Excuse me, sir. You are talking about
15 when I was the second assistant?

16 Q. No. Let's try it again. In 2001, you
17 were the first assistant, correct?

18 A. Yes.

19 Q. In calendar year 2001, when did you do
20 those vendor jobs if you were working the day shift
21 at Fred Meyer from 8:00 a.m. to 5:00 p.m.?

22 A. On my day-offs, I do the vendor jobs.

23 Q. And what days off did you have?

24 A. Sometimes Thursday, sometimes Wednesday
25 and Thursday, or sometimes -- it varies.

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1 from the doctor.

2 Q. No. All you submitted was a doctor's
3 note. Am I correct?

4 A. Yes.

5 Q. And you didn't fill out the form or
6 have your doctor fill out the form that is called
7 "Certification by Healthcare Provider." It is a
8 four page form.

9 A. They didn't give me that.

10 Q. Who is "they"?

11 A. Mr. San Miguel.

12 Q. You were sent down to talk to Rebecca
13 Harmon, the time and attendance clerk, weren't you?

14 A. No.

15 Q. You weren't?

16 A. No.

17 Q. What forms did you get?

18 A. The family leave -- application for
19 family leave of absence.

20 Q. So you are telling me if Ms. Harmon
21 tells me that she talked to you and gave you the
22 forms, but she never gave you the healthcare
23 certification form, her recollection is incorrect?

24 A. No. Mr. San Miguel give me the form.

25 Q. Form singular, or forms plural?

1 A. Excuse me?

2 Q. He gave you one form or multiple forms?

3 A. Mr. San Miguel gave me one form that
4 has four copies with it, I think.

5 Q. Okay.

6 A. Like duplicates.

7 Q. Right. And did you ever talk to
8 Rebecca Harmon?

9 A. No.

10 Q. Do you know who Rebecca Harmon?

11 A. Yes.

12 Q. Who is she?

13 A. I don't know her position now. I know
14 that she works for Fred Meyer.

15 Q. Okay. In January 2002, what position
16 did Rebecca Harmon hold?

17 A. She might be working at the time in
18 attendance, but the person I know working at the
19 time and attendance was James, not Rebecca.

20 Q. What is James' last name?

21 A. I don't remember.

22 Q. Did you ever, as a first assistant or
23 second assistant, send an employee to the time and
24 attendance clerk to get any forms for medical leave
25 at any time?

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1 A. Yes.

2 Q. who?

3 A. I don't remember the employees.

4 Q. Was that not the procedure that, if you
5 needed to get forms for a leave, you go to the time
6 and attendance clerk?

7 A. Normally that was the procedure.

8 Q. All right. Now, let's go back to the
9 questions I was asking. Did you, before you took
10 the leave in February 2002, talk to Mr. San Miguel
11 about taking six months or more off that year
12 because you thought you'd be staying in the
13 Philippines or going back to the Philippines?

14 A. Not before two thousand -- March of
15 2002.

16 Q. Did you ever tell anybody, before March
17 of 2002, that you had that discussion with
18 Mr. San Miguel?

19 A. No.

20 Q. All right. Let's go back to calendar
21 year 2001. Did you hire anybody that year?

22 A. Did I hire?

23 Q. Yes. In calendar year 2001, as first
24 assistant, did you hire any employees to work under
25 your direction at that time in the apparel